IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 578 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMABHAI DUDHABHAI PARMAR

Versus

STATE OF GUJARAT

Appearance:

MR YM THAKKAR for Petitioner

PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 19/07/2000

ORAL JUDGEMENT

#. Heard the learned advocate Mr.Y.M.Thakkar for the petitioner.

#. Rule. Learned APP Mr.H.H.Patel waives service.

#. The petitioner has prayed for temporary custody of vehicle - truck bearing registration No.GJ-17-X-3493 pending criminal case arising in connection with I CR No.9/2000 registered at Ditwas Police Station, District Panchmahals.

#. It is submitted that on 24.2.2000 the vehicle as described hereinabove while it was running from Rajasthan was intercepted by the police for the violation of the provisions of Prevention of Cruelty of Animal Act, 1960. That crime was registered vide I CR No.9/2000 and the said truck was seized.

#. That the petitioner made an application for temporary custody of the said truck under section 451 of the Code of Criminal Procedure in the court of J.M.F.C., Santrampur on 13.3.2000. However, vide order dated 7.4.2000 the application was rejected against which Criminal Revision Application No.37/2000 was filed in the court of Additional Sessions Judge, Panchmahals at Godhra. That vide order dated 5.5.2000, the said revision application was rejected and hence present special criminal application.

#. During the hearing, it is transpired that the said truck is lying in open space with the police station without any protection against the monsoon. Learned APP Mr.H.H.Patel could not dispute the proposition that under the provisions of Prevention of Cruelty of Animal Act, 1960, no powers are conferred to confiscate the vehicle. Under the circumstances, it would be just and proper if temporary custody is entrusted to the petitioner on appropriate terms and conditions. Hence, following orders are passed.

#. Truck bearing registration No.GJ-17-X-3493 be handed over to the petitioner by way of temporary custody on the following terms and conditions.:

(A) The petitioner shall execute a bond of Rs.75,000/- (Rupees seventy five thousand only) and shall furnish a surety of like amount;

(B) The petitioner shall file undertaking that as and when the truck is called for by the police or court, the petitioner shall produce the same and shall not transfer or part with the possession of the same without prior permission of the court;

(C) The petitioner shall not permit or use the said

truck for transportation of any animal;

(D) In the event of breach of any of the condition, concerned police authority shall recover the truck back from the custody of the petitioner.

Rule to that extent is made absolute. Direct service is permitted.

(A.K.Trivedi,J)
(pathan)